

REMARKS

By this response, no claims have been amended, no new claims have been added, and no claims have been deleted. Hence, claims 48-79 remain currently pending.

1. **Priority**

The Examiner has stated that Applicant's claim for the benefit of prior-filed application No. 10,128,105 ("the '105 application") under 35 U.S.C. § 120 is improper for lack of copendency between this current application and the '105 application. Applicant respectfully submits that the claim for priority was correct under 35 U.S.C. § 120, and that sufficient copendency exists to claim the benefit of the priority date requested.

The present application was filed on November 12, 2003 as a Continuation Application under 37 C.F.R. § 1.53(b), claiming priority to the '105 application, which was filed on April 23, 2002. The '105 application, itself was filed as a continuation of U.S. Patent Application serial No. 09/601,589, filed August 4, 2000, which claimed priority from U.S. Provisional Application Nos. 60/073,812, filed February 5, 1998; and 60/104,983, filed October 20, 1998.

The '105 application issued as U.S. Patent No. 6,645,158 on November 11, 2003, and the present application was filed as a Continuation of the '105 application on November 12, 2003. The present application is copending with the '105 application because November 11, 2003 was a Federal Holiday. Please see the attached list provided by the U.S. Office of Personnel Management available on the Internet at <http://www.opm.gov/dedhol/2003.asp> (attached hereto as Exhibit A). As such, applicant was allowed until the next business day, November 12, 2003, to timely file a Continuation Application claiming the priority to the '105 application. The U.S. Patent and Trademark Office has ruled that any action or fee due on a Federal Holiday, will be considered as timely for the purposes of, e.g., 35 U.S.C. §§ 119, 120, 133 and 151, if the action is taken, or the fee is paid, on the next succeeding business day on which the USPTO was open. Attached as Exhibit B, is a printout from the main page of the USPTO web site on January 8, 2005, which provides evidence of this ruling.

Therefore, it is respectfully submitted that copendency between the present application and the parent '105 application has been established.

2. Response to Claim Rejections under 35 U.S.C. § 102

Claims 48-79 stand rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent No. 6,581,595 (Murdock et al.). In light of the validity of the benefit claim to prior filed non provisional application No. 10,128,105, it is respectfully submitted that Murdock does not constitute prior art under 35 U.S.C. 102 (e), and that therefore, the instant rejection is rendered moot.

Applicants respectfully request that the remarks be considered and made part of the official record in the present application.


If there are any shortages, the Examiner is authorized to charge our Deposit Account Number 503616.

Respectfully submitted,

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